

**To:** Gallagher, Kathryn[Gallagher.Kathryn@epa.gov]  
**From:** Fleisig, Erica  
**Sent:** Tue 3/7/2017 6:17:01 PM  
**Subject:** FW: WA Toxic Criteria and AWB Petitions  
[Draft WA comparison chart 3 6 17.xlsx](#)

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**From:** Szelag, Matthew  
**Sent:** Tuesday, March 07, 2017 12:51 PM  
**To:** Fleisig, Erica <Fleisig.Erica@epa.gov>; Berol, David <Berol.David@epa.gov>  
**Cc:** Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>  
**Subject:** RE: WA Toxic Criteria and AWB Petitions

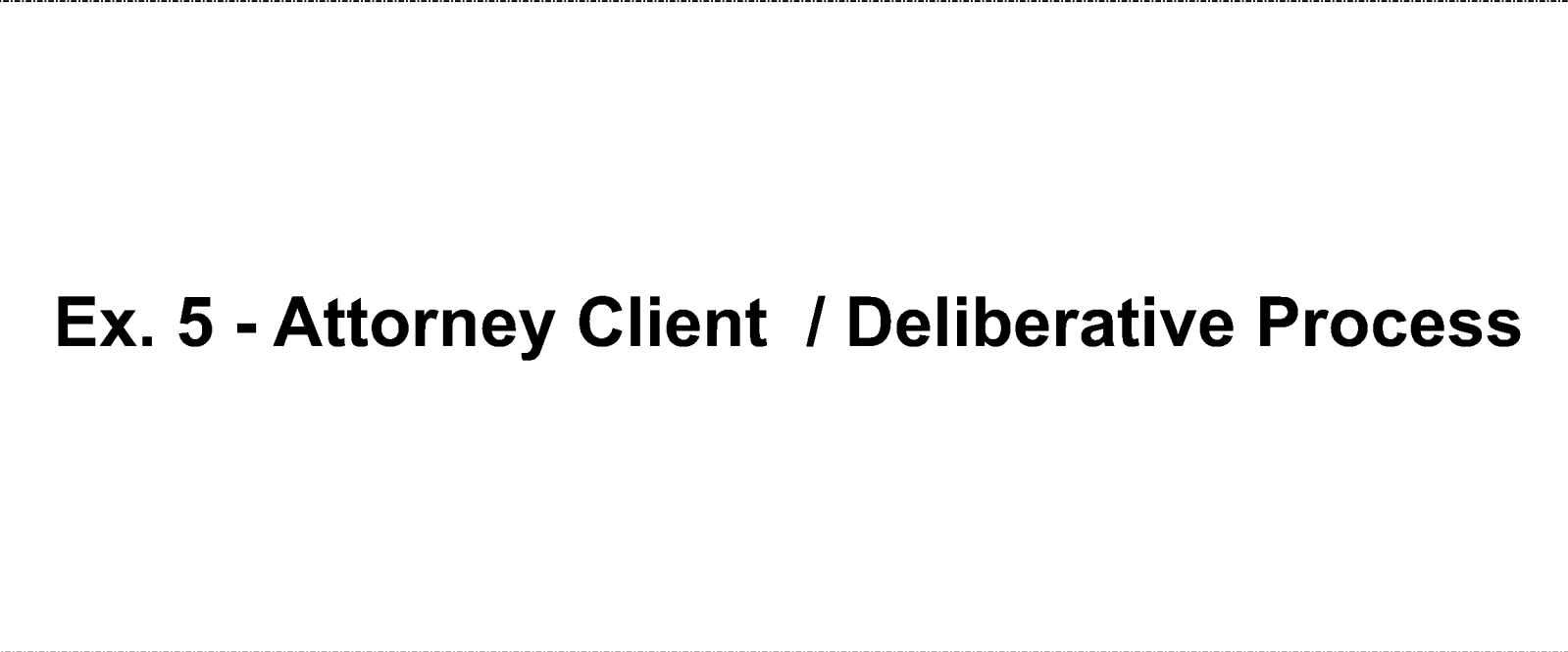
Hi all,  
Attached is a spreadsheet outlining WA’s aquatic life criteria and comparing them for our call today. To briefly summarize:

**Priority pollutants for which we have more stringent 304a:**  
Acrolein, arsenic, cadmium, copper, dieldrin, endrin, lindane, mercury, nickel, PCP, selenium

**Of that list, which do we have jeopardy opinions in neighboring states on something the same or more stringent:**  
(Not sure about acrolein), arsenic (chronic only), cadmium (acute only), copper, mercury (chronic only), nickel, selenium (chronic only)

**Non-priority pollutants that we have jeopardy opinions on our 304a for neighboring states:** ammonia and aluminum

Also, please see initial responses to David’s questions below in red.



Talk to you soon and thanks to Erica for helping pull this information together.

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Matthew Szelag | Water Quality Standards Coordinator  
U.S. Environmental Protection Agency | Region 10  
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P: (907) 271.1208 | [szelag.matthew@epa.gov](mailto:szelag.matthew@epa.gov)

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**From:** Fleisig, Erica  
**Sent:** Tuesday, March 07, 2017 4:24 AM  
**To:** Berol, David <Berol.David@epa.gov>

**Cc:** Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>

**Subject:** Re: WA Toxic Criteria and AWB Petitions

David and others,

Matt is taking a quick look through our latest spreadsheet when he gets in this morning, and will send it around before our meeting. We haven't done the last step in David's email yet, but I agree it could be useful and we should discuss as a group.

Erica

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**From:** Berol, David

**Sent:** Monday, March 6, 2017 1:56:42 PM

**To:** Fleisig, Erica

**Cc:** Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fidis, Alexander; Buffo, Corey; Ford, Peter; Schroer, Lee

**Subject:** Re: WA Toxic Criteria and AWB Petitions

Thanks, Erica.

## Ex. 5 - Attorney Client / Deliberative Process

-- David Berol

U.S. EPA Office of General Counsel

202-564-6873

On Mar 5, 2017, at 11:44 PM, Fleisig, Erica <Fleisig.Erica@epa.gov> wrote:

David, to your last point, Matt has been digging up some old spreadsheets we had developed to compare WA's criteria to our current 304a and to values in OR and ID where we had received corresponding jeopardy opinions. I'm

## Ex. 5 - Attorney Client / Deliberative Process

-Erica

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**From:** Berol, David

**Sent:** Friday, March 03, 2017 3:35 PM

**To:** Crk, Tanja <Crk.Tanja@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Szelag, Matthew

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<Szelag.Matthew@epa.gov>; Guzzo, Lindsay <Guzzo.Lindsay@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Fidis, Alexander <Fidis.Alexander@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>

**Cc:** Schroer, Lee <schroer.lee@epa.gov>

**Subject:** RE: WA Toxic Criteria and AWB Petitions

*Attorney-Client Privileged; Deliberative*

All –

In preparation for next week meetings, here's a summary of a discussion that Alex and I had yesterday with DOJ about the unreasonable delay case, and also a short summary of the primary issues I see in the NWEA petition (just focusing on Washington's aquatic life criteria).

## Ex. 5 - Attorney Client / Deliberative Process

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*David Berol*

U.S. EPA Office of General Counsel  
202-564-6873  
[berol.david@epa.gov](mailto:berol.david@epa.gov)

-----Original Appointment-----

**From:** Crk, Tanja

**Sent:** Thursday, February 23, 2017 9:59 AM

**To:** Crk, Tanja; Chung, Angela; Szelag, Matthew; Guzzo, Lindsay; Szalay, Endre; Steiner-Riley, Cara; Fleisig, Erica; Fidis, Alexander; Buffo, Corey; Berol, David; Ford, Peter

**Cc:** Schroer, Lee

**Subject:** WA Toxic Criteria and AWB Petitions

**When:** Tuesday, March 07, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** HQ-Room-WJCW-6124-50pp

Dial in: **Ex. 6 - Personal Privacy**

*Note that this is an EPA (internal) meeting for staff and BCs to discuss two petitions: 1) the complaint by NWEA regarding EPAs response (or failure to respond) to the NWEA petition to update the WQC for toxics in WA and includes a no action reference on arsenic, dioxin, and thallium; and 2) the AWB petition to withdraw the federal rule in WA.*

## **Ex. 5 - Deliberative Process / ACP**

### Agenda

1. Discuss the WA petition from NWEA

[NWEA petition response.pdf](#)

Response to NWEA May 2016. Is there an email record of sending this petition response to Nina?

2. Discuss the AWB petition